



Petition to Renew a Current Exemption Under 17 U.S.C. § 1201

9th Triennial Rulemaking

Please submit a separate petition for each current exemption for which renewal is sought.

NOTE: Use this form if you want to renew a current exemption without modification. If you are seeking to engage in activities not currently permitted by an existing exemption, including those that would require the expansion of a current exemption, you must submit a petition for a new exemption using the form available at copyright.gov/1201/2024/new-petition.pdf.

If you are seeking to expand a current exemption, we recommend that you submit both a petition to renew the current exemption without modification using this form, and, separately, a petition for a new exemption that identifies the current exemption and addresses only those issues relevant to the proposed expansion of that exemption.

ITEM A. PETITIONERS AND CONTACT INFORMATION

Please identify the petitioners and provide a means to contact the petitioners and/or their representatives, if any. The “petitioner” is the individual or entity seeking renewal.

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Privacy Act Advisory Statement: Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office website and use by Copyright Office staff for purposes of the rulemaking proceeding conducted pursuant to 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this application. Please keep this statement and refer to it if we communicate with you regarding this petition.

ITEM B. IDENTIFY WHICH CURRENT EXEMPTION PETITIONERS SEEK TO RENEW

Check the appropriate box below that corresponds with the current temporary exemption (see **37 C.F.R. § 201.40**) the petitioners seek to renew. Please check only one box. If renewal of more than one exemption is sought, a separate petition must be submitted for each one.

Motion Pictures (including television programs and videos):

- Excerpts for use in documentary filmmaking or other films where use is in parody or for a biographical or historically significant nature
- Excerpts for use in noncommercial videos
- Excerpts for use in nonfiction multimedia e-books
- Excerpts for educational purposes by college and university faculty, students, or employees acting at the direction of faculty, or K–12 educators and students
- Excerpts for educational purposes by faculty and employees acting at the direction of faculty in massive open online courses (“MOOCs”)
- Excerpts for educational purposes in digital and literacy programs offered by libraries, museums, and other nonprofits
- For the provision of captioning and/or audio description by disability services offices or similar units at educational institutions for students, faculty, or staff with disabilities
- For the preservation or the creation of a replacement copy of the motion picture by libraries, archives, or museums
- For text and data mining by a researcher affiliated with a nonprofit institution of higher education, or by student or staff at the direction of such researcher, for the purpose of scholarly research and teaching

Literary Works:

- Literary works distributed electronically for text and data mining by a researcher affiliated with a nonprofit institution of higher education, or by student or staff at the direction of such researcher, for the purpose of scholarly research and teaching
- Literary works or previously published musical works that have been fixed in the form of text or notation whose technological protection measures interfere with assistive technologies
- Literary works consisting of compilations of data generated by medical devices or their personal corresponding monitoring systems, to access personal data

Computer Programs and Video Games:

- Computer programs that operate wireless devices, to allow connection to an alternative wireless network (“unlocking”)
- Computer programs that operate smartphones and portable all-purpose mobile computing devices to allow the device to interoperate with or to remove software applications (“jailbreaking”)
- Computer programs that operate smart televisions to allow the device to interoperate with software applications on the television for purposes other than gaining unauthorized access to copyrighted works (“jailbreaking”)
- Computer programs that operate voice assistant devices to allow the device to interoperate with or to remove software applications for purposes other than gaining unauthorized access to copyrighted works (“jailbreaking”)
- Computer programs that operate routers and dedicated network devices to allow the device to interoperate with software applications on the device for purposes other than gaining unauthorized access to copyrighted works (“jailbreaking”)
- Computer programs that control motorized land vehicles, marine vessels, or mechanized agricultural vehicles or vessels for purposes of diagnosis, repair, or modification of the vehicle, including to access diagnostic data
- Computer programs that control devices designed primarily for use by consumers for diagnosis, maintenance, or repair of the device or system
- Computer programs that control medical devices or systems, and related data files, for diagnosis, maintenance, or repair of the device or system
- Computer programs for purposes of good-faith security research
- Video games for which outside server support has been discontinued, to allow individual play by gamers and preservation of games by libraries, archives, and museums (as well as necessary jailbreaking of console computer code for preservation uses only), and discontinued video games that never required server support, for preservation by libraries, archives, and museums
- Computer programs other than video games, for the preservation of computer programs and computer program-dependent materials by libraries, archives, and museums
- Computer programs that operate 3D printers, to allow use of alternative material
- Computer programs for purpose of investigating potential infringement of free and open source computer programs
- Video games in the form of computer programs for purpose of allowing an individual with a physical disability to use alternative software or hardware input methods

ITEM C. EXPLANATION OF NEED FOR RENEWAL

Provide a brief explanation summarizing the continuing need and justification for renewing the exemption. The Office anticipates that petitioners will provide a paragraph or two detailing this information, but there is no page limit. While it is permissible to attach supporting documentary evidence as exhibits to this petition, it is not necessary. Below is a hypothetical example of the kind of explanation that the Office would regard as sufficient to support renewal of the unlocking exemption. The Office notes, however, that explanations can take many forms and may differ significantly based on the individual making the declaration and the exemption at issue.

MEMA, The Vehicle Suppliers Association, is the leading trade association in North America for vehicle suppliers, parts manufacturers, and remanufacturers. Automotive and commercial vehicle suppliers are the largest manufacturing sector in the United States and lead the way in new vehicle innovations. MEMA has been the voice of the vehicle supplier industry since 1904. Its more than 1,000 members are Strong by Association.

MEMA Aftermarket Suppliers, a group of MEMA, exclusively serves manufacturers of aftermarket components, tools and equipment, and related products, an important part of the automotive parts manufacturing industry which supports 907,000 American jobs in all 50 states. MEMA Aftermarket is a recognized industry change agent – promoting a collaborative industry environment, providing a forum to address issues and serving as a valued resource for members across all areas of the aftermarket including light vehicle, commercial vehicle, and remanufacturing.

Members supply the aftermarket with the parts that keep millions of vehicles on the road, fueling international commerce and meeting society's transportation needs. MEMA members are committed to safety and sustainability.

On behalf of MEMA Aftermarket Suppliers, MEMA is once again supporting renewal of the temporary exemption for circumvention of technological measures that control access to computer programs that are contained in and control the functioning of lawfully acquired motorized vehicles when circumvention is a necessary step to allow for the diagnosis, repair, or modification of the vehicle, as fully set forth at 37 CFR 201.40(b)(13).

As reflected in the record from prior rulemakings, modern vehicles are equipped with systems of interconnected computers that monitor and control a variety of vehicle functions. Manufacturers understandably restrict access to vehicle computer programs in order to protect consumer safety, ensure compliance with certain regulatory requirements, and protect their intellectual property rights, but a wide variety of diagnostic, repair and modification activities now require access to and sometimes alteration of those computer programs, including identifying malfunctions, installing replacement parts, and customizing vehicles for specialized uses. As the Copyright Office has recognized, vehicle owners are likely to be adversely affected if technological measures prevent them from lawfully diagnosing, repairing, and modifying their vehicles.

There is a clear continuing need and justification for this exemption. Indeed, seemingly every year vehicle computer programs become more important and essential to today's motor vehicles. Inability to access such programs would materially constrain a vehicle owner's ability to engage in otherwise lawful and non-infringing use of their vehicle or its component parts. Failure to renew the current exemption could also limit an owner's choices in the vehicle service industry by prohibiting or restricting independent automotive repair shops from accessing critical computer software. Finally, failure to renew the exemption could limit consumer access to telematics data about vehicle and system performance, which provides valuable information about each individual vehicle. For example, the data might reveal the exact date and time when a vehicle system has malfunctioned and reveal to a technician the specific incident or event that led to the malfunction. Similarly, in exchange for a discount on their insurance premiums, some consumers choose to share their telematics data with automotive insurance companies, which lets the insurer verify safe driving habits. Such consumer choice is in some instances limited or restricted by vehicle technological protection measures.

In short, the current version of the exemption reflects a careful and thoughtful balance between consumer safety, protection of intellectual property, and protection of consumer choice in the automotive aftermarket, and is a testament to the success of prior rulemakings. MEMA's membership continues to see firsthand that the exemption is helping protect consumer choice and a competitive market, while mitigating risks to intellectual property and vehicle safety. For these reasons, MEMA urges the Copyright Office to renew the exemption for another three years.

ITEM C. EXPLANATION OF NEED FOR RENEWAL *(CONT'D)*

ITEM D. DECLARATION AND SIGNATURE

The declaration is a sworn statement made under penalty of perjury and must be signed by one of the petitioners named above.

I declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. Based on my own personal knowledge and experience, I have a good faith belief that but for the above-selected exemption's continuation during the next triennial period (October 2024–October 2027), technological measures controlling access to relevant copyrighted works are likely to diminish the ability of relevant users to make noninfringing uses of these works, and such users are likely to rely upon the above-selected exemption during the next triennial period.
2. To the best of my knowledge, there has not been any material change in the facts, law, or other circumstances set forth in the prior rulemaking record (available at copyright.gov/1201/2021) that originally demonstrated the need for the above-selected exemption, such that renewal of the exemption would not be justified.
3. To the best of my knowledge, the explanation provided in Item C above is true and correct and supports the above statements.

Name/Organization:

If the petitioner is an entity, this declaration must be signed by an individual at the organization having appropriate personal knowledge.

MEMA, The Vehicle Suppliers Association

Signature:

This declaration may be signed electronically (e.g., "/s/ John Smith").

/s/ Catherine Boland
Vice President, Legislative Affairs

Date:

July 7, 2023